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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/685,142

10/14/2003

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08/25/2005

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EXAMINER

GREENHUT, CHARLES N

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--|---------------------------------------|--|
| Office Action Summary | Application No. 10/685,142 | Applicant(s) NEUMANN ET AL. | |
| | Examiner Charles N. Greenhut | Art Unit 3652 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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I. Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "post member attached to said base member" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference signs mentioned in the description:
 - 2.1. Tow bar 24 (possibly indicated by 22)
 - 2.2. End 22 (numeral 22 is shown but apparently indicates the tow bar)
 - 2.3. Roller conveyor arrangement 80 (possibly indicated by 18)
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "14" has been used to designate both front and rear wheels where the specification describes them as different parts.
4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the

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top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

II. Claim Objections

1. Claim **14** objected to because of the following informalities:

1.1. "further a roller" should read "further including a roller."

1.2. Appropriate correction is required.

III. Specification

1. The disclosure is objected to because of the following informalities:

1.1. Reference characters "18" and "80" have both been used to designate the roller conveyor arrangement. Multiple references to "conveyor arrangement 80" on page 6 of the specification should refer to "conveyor arrangement 18."

1.2. Appropriate correction is required.

IV. Claim Rejections - 35 USC § 102

1.1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims **1-3, 9-11, 14, and 16-19** are rejected under 35 U.S.C. 102(b) as being anticipated by HEARN (US 3,727,946).

2.1. With respect to claim 1, HEARN discloses:

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2.1(a) A base member (Fig. 1 (F)).

2.1(b) A frame member (Fig. 1 (T)).

2.1(c) Means for rotably connecting base to frame (Col. 2 Li. 33).

2.1(d) Means for indexing frame with respect to base (Col. 2 Li. 38-40).

2.2. With respect to claim 2, HEARN discloses all elements of claim 1 and additionally discloses:

2.2(a) A rotably connecting means having a support member, with a bore, attached to the base (Fig. 2 (53)).

2.2(b) A post member attached to the frame member rotably received within the bore (Fig. 2 (51); Col. 4 Li. 33-35).

2.3. With respect to claim 3, HEARN discloses all elements of claim 1 and additionally discloses:

2.3(a) A first member attached to the base (Fig. 1 (46)).

2.3(b) A second member attached to the frame (Fig. 1 (63)).

2.4. With respect to claim 9, HEARN discloses all elements of claim 3 and additionally discloses:

2.4(a) A first member attached to the top of the base (Fig. 1 (46)).

2.4(b) A second member attached to the bottom of the frame (Fig. 1 (63)).

2.5. With respect to claim 10, HEARN discloses all elements of claim 3 and additionally discloses:

2.5(a) A plurality of bearings rotably connected to the first member (Fig. 1 (48); Col. 4 Li. 19).

2.6. With respect to claim 11, HEARN discloses all elements of claim 10 and additionally discloses:

2.6(a) A plurality of roller bearings rotably connected to the first member (Fig. 1 (48); Col. 4 Li. 19) permitting the rolling engagement of the second member (Col. 2 Li. 33).

2.7. With respect to claim 14, HEARN discloses all elements of claim 1 and additionally discloses:

2.7(a) A roller conveyor arrangement attached to the top of the frame (Fig. 1 (58)).

2.8. With respect to claim 16, HEARN discloses all elements of claim 14 and additionally discloses:

2.8(a) A plurality of roller conveyor sections having the same length (Col. 4 Li. 25-26).

2.9. With respect to claim 17, HEARN discloses all elements of claim 1 and additionally discloses:

2.9(a) A plurality of wheels on the base member at the approximate corners of the base (Fig. 1 (W)).

2.10. With respect to claim 18, HEARN discloses all elements of claim 1 and additionally discloses:

2.10(a) A handle member and tow bar attached to the base (Fig. 6 and 7 generally; Col. 4 Li. 10-13).

2.11. With respect to claim 19, HEARN discloses all elements of claim 1 and additionally discloses:

2.11(a) A handle member and tow bar rotably attached to the base (Fig. 6 and 7 generally; Col. 4 Li. 10-13).

3. An issue of public use or on sale activity has been raised in this application. In order for the examiner to properly consider patentability of the claimed invention under 35 U.S.C. 102(b), additional information regarding this issue is required as follows:

3.1. Archived images of applicants website <http://www.k-tec.bz> show that the claimed invention was both reduced to practice and the subject of a commercial offer for sale as early as June 19, 2002, more than one year before the effective filing date. See *MPEP* §§ 2133.03(b)-(c)

3.1(a) REF: <http://web.archive.org/web/20030417005726/www.k-tec.bz/products.html>.

Applicant is reminded that failure to fully reply to this requirement for information will result in a holding of abandonment.

V. Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims **4-6** and **8** are rejected under 35 U.S.C. 103(a) as being unpatentable over HEARN in view of WELYKOCHY (CA 2,173,425 A).

1.1. With respect to claim 4, HEARN teaches all elements of claim 3. HEARN additionally discloses a member attached to the frame that is circular (Fig. 1 (63)). Hearn fails to disclose a member attached to the base that is circular. WELYKOCHY discloses a circular member attached to the base (Fig. 6 & 7 (44)). Having a circular base allows for a greater surface area which would insure that there is a greater surface area to

contact the lifted item. It would have been obvious to one of ordinary skill in the art to modify HEARN with the additional circular base member of WELYKOCHY in order to allow for more even load distribution over the base member.

1.2. With respect to claims 5 and 6, HEARN in view of WELYKOCHY teaches all elements of claim 4. HEARN fails to teach one circular member being slightly larger than, and concentric with, the other circular member. WELYKOCHY teaches a one circular member being slightly larger than, and concentric with, the other circular member (Fig. 7 (36) and (44)). It would have been obvious to one of ordinary skill in the art to modify HEARN with the additional concentric circular base member of WELYKOCHY in order to allow for more even load distribution over the base member.

1.3. With respect to claim 8, HEARN teaches all elements of claim 3. HEARN fails to teach L shaped angle iron. WELYKOCHY teaches an L-shaped cross section (Fig. 7 (44)). It would have been obvious to one of ordinary skill in the art to modify HEARN with the L-shaped cross section of WELYKOCHY in order to provide a complimentary conforming member, thereby, allowing for a more even load distribution over the base. HEARN in view of WELYKOCHY does not specify materials that may be used to construct the member. It would, however, have been obvious to one of ordinary skill in the art at the time of invention to use iron to fabricate the member. Iron would have been an obvious choice of material because it is well-known in the art to be inexpensive, easy to manufacture and capable of supporting heavy loads while maintaining the rigidity necessary to allow relative rotation of the concentric members.

2. Claims **7, 12-13, 20-22** are rejected under 35 U.S.C. 103(a) as being unpatentable over HEARN in view of TOEWS (US 3,419,282).

2.1. With respect to claim 7, HEARN teaches all the elements of claim 3. HEARN fails to teach tubing having a square cross section. TOEWS teaches tubing having a square cross section (Fig. 14 (36)). Square tubing provides a strong, yet relatively lightweight, support surface having dual webs which provide resistance to both axial and moment loads. It would have been obvious to one of ordinary skill in the art to modify HEARN with the square tubing of TOEWS in order to minimize deflection thereby allowing for smooth rotation of the members. HEARN in view of TOEWS does not specify materials that may be used to construct the member. It would, however, have been obvious to one of ordinary skill in the art at the time of invention to use metal to fabricate the member. Metal would have been an obvious choice of material because it is well-known in the art to be inexpensive, easy to manufacture and capable of supporting heavy loads while maintaining the rigidity necessary to allow relative rotation of the concentric members.

2.2. With respect to claim 12, HEARN teaches all the elements of claim 3 and additionally teaches an indexing means having a spring loaded pin arrangement attached to the base (Fig. 2 (70) and (78)). HEARN fails to teach a complimentary flange arrangement attached to the second member and a pin arrangement that engages the complimentary flange arrangement. TOEWS teaches a complimentary flange arrangement attached to the second member (Fig 1 (92)) and a pin arrangement that engages the flange arrangement (Fig. 12 generally) as an indexing means. It would have been obvious to one of ordinary skill in the art to modify HEARN with the

complimentary pin and flange arrangement of TOEWS in order to restrict both clockwise and counter-clockwise rotation of the frame and allow for automatic engagement of the locking mechanism, thereby locking the frame at preset locations.

2.3. With respect to claim 13, HEARN in view of TOWES teaches all the elements of claim

12. HEARN fails to disclose a complimentary flange arrangement comprising a pair of flanges with a gap in between for receiving the pin. TOWES teaches a complimentary flange arrangement comprising a pair of flanges with a gap in between for receiving the pin (Fig. 12 (117); Col. 4 Li. 40-43). It would have been obvious to one of ordinary skill in the art to modify HEARN with the complimentary pin and flange arrangement of TOEWS in order to restrict both clockwise and counter-clockwise rotation of the frame and allow for automatic engagement of the locking mechanism, thereby locking the frame at preset locations.

2.4. With respect to claim 20, HEARN in view of TOWES teaches all the elements of claim

13. HEARN additionally discloses a means for retaining a load on the conveyor (Fig. 2 (L)).

2.5. With respect to claim 21, HEARN in view of TOWES teaches all the elements of claim

20. HEARN additionally discloses a means for retaining a load on the conveyor comprising a rotatable retainer positioned adjacent an end of the conveyor arrangement (Fig. 2 (L)) and a means for actuating the retainer (Figs. 2-5).

2.6. With respect to claim 22, HEARN in view of TOWES teaches all the elements of claim

21. HEARN additionally discloses a means for actuating the retainer comprising a linkage mechanism (Figs. 2-5).

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3. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over HEARN in view of CESARINI (US 4,756,660).

3.1. With respect to claim 15, HEARN teaches all the elements of claim 14. HEARN fails to teach an H-shaped configuration of the conveyor arrangement constructed from three roller conveyor sections. CESARINI teaches an H-shaped configuration of roller conveyor assemblies mounted on the top of the frame (Fig 1. (10) and (11)). It would have been obvious to one of ordinary skill in the art to modify HEARN with the H-shaped configuration of roller conveyor assemblies of CESARINI in order to allow penetration of people or alternate load bearing means, allowing transfer or manipulation of the cargo.

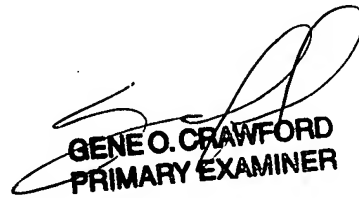
VI. Conclusion

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 7:30am - 4:00pm EST.
3. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.
4. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information

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about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CG



GENE O. CRAWFORD
PRIMARY EXAMINER